

May 19, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File Nos. **L03RE048 & L00P0024A**
Proposed Ordinance No. **2004-0165**

ASTER PARK

Revision to Preliminary Plat Application

Location: On the Southwest Quadrant of the Intersection of 148th Avenue
Southeast and Southeast Renton-Issaquah Road

Applicant: Norris Homes, Inc., *represented by*
Mike Romano
Centurion Development Services
22617 – 8th Drive Southeast
Bothell, WA 98021
Telephone: (425) 486-2563

King County: Department of Development and Environmental Services, *represented by*
Kim Claussen
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167
Facsimile: (206) 296-8686

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Approve, subject to conditions

Examiner's Decision:

Approved, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

May 18, 2004

Hearing Closed:

May 18, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Norris Homes, Inc.
c/o Centurion Development Services
22617 8th Drive Southeast
Bothell, WA 98021
425-486-2563

Consultant: Centurion Development Services
Attn. Michael Romano
22617 Eighth Drive Southeast
Bothell, WA 98021
425-486-2563

STR: 3-23-05

Location: The site is located on the southwest quadrant of the intersection of 148th SE and SE Renton-Issaquah Road (SR 900)

Zoning: R-4

Acreage: 9.15 acres

Number of Lots: 36 lots

Density: Approximately 4 units per acre

Lot Size: Lots average approximately 5,000 square feet in size

Proposed Use: Single-family detached dwellings

Sewage Disposal: City of Renton

Water Supply: King County Water District #90

Fire District: City of Renton

School District: Issaquah School District

Revision Submittal Date: December 30, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 18, 2004 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions. The hearing record for L00P0024 has been incorporated into this proceeding.
3. Norris Homes, Inc. has a filed an application pursuant to KCC 19A.12.030 to revise the preliminary plat of Aster Park approved on June 6, 2003. The request is to delete conditions 20, 21 and 22 within the June 6, 2003 report and decision which were based on requirements for protecting an off-site red-tailed hawk nest as stated in a mitigated determination of non-

significance issued April 7, 2003. A reissued MDNS dated February 20, 2004 removed the hawk nest protection requirement consistent with a recent amendment to Comprehensive Plan Policy E-168 adopted by the King County Council.

4. As modified the plat revision would not increase the number of lots. However, a revised plat map submitted December 30, 2003 shows the tract B open space area within the 325 foot hawk nest radius on the eastern side of the plat replaced by a new residential lot. The areas within other plat lots also have been increased.

CONCLUSIONS:

1. The deletion of plat conditions as requested by the Applicant constitutes a substantial change to the preliminary plat approval conferred on Aster Park on June 6, 2003. Accordingly, under KCC 19A.12.030 the revision request constitutes a Type 3 application with a new vesting date.
2. Ordinance 14775 adopted by the King County Council effective October 24, 2003 modified Comprehensive Plan Policy E-168 by deleting habitat for the red-tailed hawk from its list of designated fish and wildlife habitat conservation areas within the Urban Growth Area. Although the nest adjacent to Aster Park lies within the Rural Area, the plat itself is located within the Urban Growth Area and the change to Policy E-168 applies to it. The deletion of the red-tailed hawk nest protective area conditions required within the June 6, 2003 report and decision of the hearing examiner is consistent with Comprehensive Plan Policy E-168 as amended. In all other respects, the findings and conclusions contained in the examiner's June 6, 2003 report and decision remain valid and effective.

DECISION:

The preliminary plat revision for Aster Park received on December 30, 2003 is GRANTED, subject to the conditions contained in the examiner's June 6, 2003 report and decision, except that conditions 20, 21 and 22 therein are deleted and the following additional condition is imposed:

1. If the red-tailed hawks are actively using the nest east of the site at the time of construction, the Applicant shall notify the Washington State Department of Fish and Wildlife and comply with any Washington State regulations protecting the red-tailed hawks in effect and applicable to the property.

ORDERED this 19th day of May, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 19th day of May, 2004, to the following parties and interested persons of record:

Robert Darrow
Haozous Engineering
13428 - 45th Court
Mukilteo WA 98275

Claudia Donnelly
10415 - 147th Ave. SE
Renton WA 98059

Alexander Everett
14820 SE 111th Pl.
Renton WA 98059

Jim B. Johnson
11012 - 148th Ave. SE
Renton WA 98059

Steve Johnson
11509 - 161st Avenue SE
Renton WA 98509

Rebecca Lind
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Norris Homes
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22617 - 8th Dr. SE
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Mark Bergam
LUSD/ERS
Prel. Review Engineer
MS OAK-DE-0100

Greg Borba
DDES/LUSD
MS OAK-DE-0100

Kim Claussen
DDES/LUSD
Current Planning
MS OAK-DE-0100

Nick Gillen
Wetland Review
DDES/SDSS
MS OAK-DE-0100

Lanny Henoch
DDES/LUSD
Current Planning
MS OAK-DE-0100

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Land Use Traffic
MS OAK-DE-0100

Carol Rogers
LUSD/CPLN
MS OAK-DE-0100

Steve Townsend
DDES/LUSD
Land Use Inspections
MS OAK-DE-0100

Larry West
DDES/LUSD
Geo Review
MS OAK-DE-0100

NOTICE OF APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before June 3, 2004.*** If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 10, 2004.*** Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 18, 2004 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO. L03RE048/L00P0024.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Kim Claussen, representing the Department; and Michael Romano, representing the Applicant.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L03RE048/L00P0024
- Exhibit No. 2 DDES Preliminary Report dated May 18, 2004
- Exhibit No. 3 Letter to Kimberly Claussen from Michael Romano dated December 30, 2003
Re: Request for Revision
- Exhibit No. 4 Environmental Checklist dated December 30, 2003
- Exhibit No. 5 Mitigated Declaration of Non-Significance dated February 20, 2004 (Reissuance)
- Exhibit No. 6 Affidavit of Posting indicating February 12, 2004 as date of posting and
February 17, 2004 as the date the affidavit was received by DDES.
Notice of Application
- Exhibit No. 7 Plat Map dated December 30, 2003 (revision)
- Exhibit No. 8 Ordinance 14775
- Exhibit No. 9 Examiner's Report dated June 6, 2003 & Errata Report dated June 11, 2003
- Exhibit No. 10 Preliminary Plat Map received March 2003

SLS:gao
L00P0024A RPT